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FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

C.V.07 U.U.308

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES CAMPBELL COMPANY LLC,

Defendant.

CIVIL ACTION NO. \_\_\_\_\_

COMPLAINT

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The United States of America ("United States"), by and through the undersigned attorneys, by the authority of the Attorney General, and acting at the request of the Administrator of the United States Environmental Protection Agency ("EPA"), alleges the following:

### PRELIMINARY STATEMENT

1. This is a civil action under Section 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9606. The United States seeks injunctive relief to remedy an imminent and substantial endangerment to human health and the environment arising out of the releases or threatened releases of hazardous substances at the Del Monte Fresh Produce (Hawaii), Inc. site located in Oahu, Hawaii (“Site”).

### JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 9606. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 42 U.S.C. § 9613(b).

### THE DEFENDANT

3. James Campbell Company LLC (“Campbell”) is a company doing business in the State of Hawaii and is a “person” within the meaning of 42 U.S.C. § 9601(21).

### CERCLA STATUTORY LIABILITY

4. Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), provides in pertinent part:

[W]hen the President determines that there may be an imminent and substantial endangerment to the public health or welfare or the environment because of an actual or threatened release of a hazardous substance from a facility, he may require the Attorney General of the United States to secure such relief as may be necessary to abate such danger or threat, and the district court of the United States in the district in which the threat occurs shall have jurisdiction to grant such relief as the public interest and the equities of the case may require.

5. By Executive Order 12580 of January 23, 1987, the President's functions under Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), have been delegated to the Administrator of EPA.

### GENERAL ALLEGATIONS

#### Site Background

6. The Site is part of a former 6,000 acre pineapple plantation located on the Hawaiian island of Oahu and has been used to grow pineapples since the 1940's. From at least the 1940's through 1983, ethylene dibromide ("EDB") was a soil fumigant used by Del Monte Fresh Produce (Hawaii), Inc. or its predecessors ("DMFP") and applied to the Site. EDB is a hazardous substance under CERCLA.

7. On or about April 7, 1977, a spill involving approximately 496 gallons of EDB containing 1,2 dibromo-3-chloropropane ("DBCP") occurred on Site soils within 50 feet of the Kunia well, which supplied agricultural water and domestic water to the residents of Kunia Village. DBCP is a hazardous substance under CERCLA.

8. Samples from the Kunia well collected on April 14, 1980, and April 24, 1980, detected the presence of EDB and DBCP at levels exceeding both state and federal drinking water regulations. On April 25, 1980, the Hawaii Department of Health ordered that the Kunia well be disconnected from the Kunia Village's potable water supply.

9. Approximately 2,000 tons of contaminated soil were removed from the EDB spill area in 1981, and 16,000 tons of contaminated soil were removed from DMFP or its predecessors' former pesticide mixing and storage areas in 1983. DMFP or its predecessors pumped the Kunia well and used the extracted water to irrigate a non-crop field located to the north of the Kunia well.

10. In 1990, EPA performed a Preliminary Assessment/Site Investigation and proposed adding the Site to the National Priorities List ("NPL"). In 1994, EPA directed DMFP to stop pumping the Kunia well and informed it that its use of the extracted groundwater for irrigation and other purposes constituted an unlawful disposal of hazardous substances. On December 16, 1994, EPA listed the Site on the NPL.

11. In 2003, EPA published a proposed plan for remedial action at the Site. On September 25, 2003, EPA signed the Record of Decision selecting the remedial action for the Site.

12. "Hazardous substances," as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), were disposed of at the Site.

13. There have been actual "releases" of hazardous substances at and from the Site, within the meaning of Section 101(22), 42 U.S.C. § 9601(22), which have contaminated surface and subsurface soils and groundwater. Actual or threatened releases of hazardous substances into the environment at or from the Site continue.

#### CLAIM FOR RELIEF

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. EPA has determined that there is or may be an imminent and substantial endangerment to the public health or welfare or the environment because of the actual and/or threatened releases of hazardous substances at and from the Site.

16. Pursuant to Section 106(a) of CERCLA, 42 U.S.C. § 9606(a), Campbell is liable to the United States for injunctive relief to abate and remedy the imminent and substantial endangerment to the public health or welfare or the environment presented by the Site.

17. Campbell is liable as a person who currently owns the Site within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. § 9607(a)(1).

18. Campbell is liable as a person who owned the Site at the time of disposal of hazardous substances at the Site within the meaning of Section 107(a)(2) of CERCLA, 42 U.S.C. § 9607(a)(2).

PRAYER FOR RELIEF


WHEREFORE, Plaintiff respectfully prays that this Court:

1. Pursuant to Section 106 of CERCLA, 42 U.S.C. § 9606, order Campbell to abate the conditions at the Site that may present an imminent and substantial endangerment to the public health or welfare or the environment;
2. Award the United States the costs of this action; and,
3. Grant such other relief as this Court may deem just and proper.

Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

6/8/07  
Date

  
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United States of America v. James Campbell Company LLC, Complaint

June 1, 2007  
Date



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